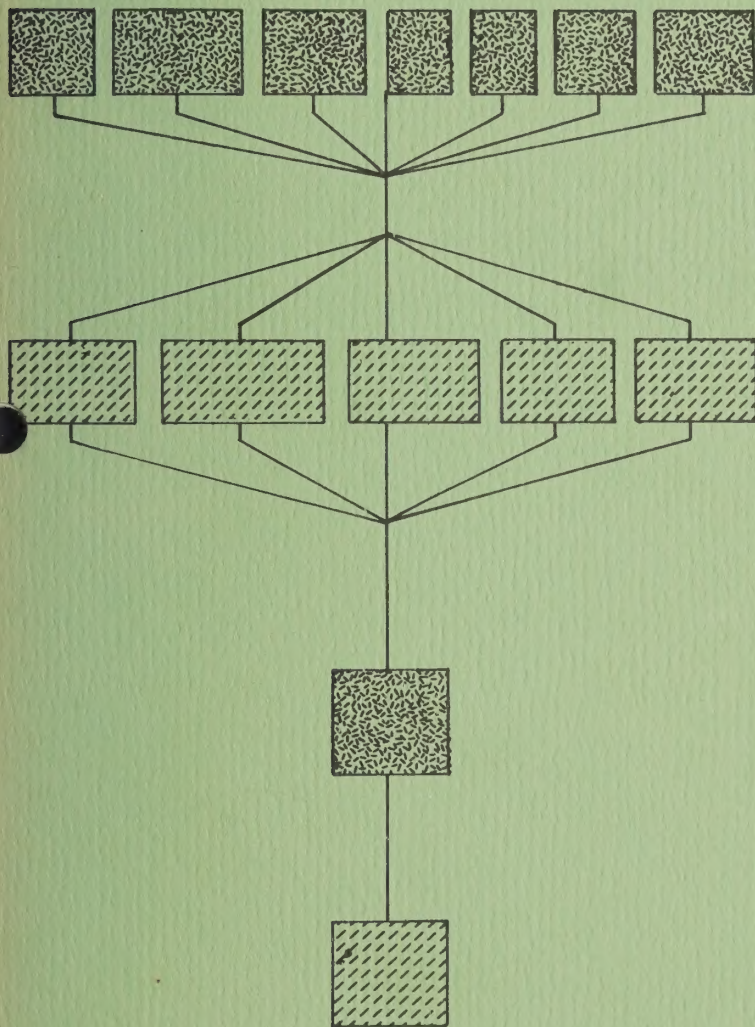


City of Merced

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ENVIRONMENTAL RESOURCES MANAGEMENT PLAN



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open space *element*

ERRATA

Environmental Resources Management Plan (ERMP)

Open Space Element, Volume V

Page 14

Add:

29. To have a cost-benefit analysis undertaken of continued development on certain agricultural land.
38. To require proper methods for controlling and disposing of wastes from animals in confinement.

Prepared by
Merced City Planning Department,
Merced, California

January, 1976

CITY OF MERCED

CITY COUNCIL

William P. Quigley, Mayor
George M. Parker, Mayor Pro Tem
Edwin M. Dewhirst
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Lenora Young

ALLAN R. SCHELL, CITY MANAGER

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Curtis A. Riggs, Vice Chairman
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Catherine Weber

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[Merced City Council]
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CITY OF MERCED
Planning Commission

RESOLUTION #1152

WHEREAS, the Merced City Planning Commission at its regular meeting of December 17, 1975, considered a re-edited version of the Open Space Element of the City of Merced Environmental Resources Management Plan (ERMP), a portion of the General Plan; and,

WHEREAS, an Environmental Impact Report (EIR) was prepared to evaluate the potential environmental impact of the Open Space Element, among others, when the ERMP was approved by the Merced City Planning Commission and adopted by the Merced City Council in 1974; and,

WHEREAS, the re-edited version of the Open Space Element does not by virtue of the changes to its text reflect any potential or prospective change in environmental impact not previously evaluated, thus requiring no further environmental assessment; and,

WHEREAS, upon due public notice a public hearing was conducted on December 17, 1975; and,

WHEREAS, no one spoke regarding the Open Space Element and no written comments were received; and,

WHEREAS, the Merced City Planning Commission made the following findings:

1. The prospective reorganization of the ERMP portion of the Merced City General Plan, including the re-edited Open Space Element, would appear to provide for a reduction of prospective reproduction costs when the element(s) involved is reprinted.
2. The shorter version will hopefully be more readable (from a time standpoint) and thus will receive greater public attention.
3. The preparation of an individual element under separate cover (in lieu of the original ERMP that contained five elements under one cover) will allow for wider, less costly distribution for citizens interested in particular elements.

NOW, THEREFORE, BE IT RESOLVED that the Merced City Planning Commission does approve, with certain minor changes to existing policies as reflected hereunder, the re-edited version of the Open Space Element of the Merced Environmental Resources Management Plan (ERMP), a portion of the Merced General Plan, with a reduced number of pages and designed for reproduction under separate cover, and recommends that the Merced City Council adopt the Open Space Element as amended and approved:

Policy #

Change To:

11.

To encourage and support public education that alerts the citizenry to the importance and preservation of our plant and animal life, and their communities and relationships.

15. To work closely with Merced County to reevaluate the adviseability of adopting the California Land Conservation Act (Williamson Act).
16. To encourage agricultural methods which protect and/or enhance environmental quality and to oppose those agricultural methods which significantly contribute to air, water, land, and other pollution.
17. To conserve groundwater recharge areas and watershed areas for agricultural, recreational, industrial and domestic needs.
31. To locate park and recreation facilities according to their relationship to residential areas, schools, streets, highways, and transit routes, as well as according to population characteristics. A comprehensive master plan to locate park and recreation areas should be developed and adopted.
54. To require residential, commercial, and industrial land uses to have sufficient landscape buffers so as to help separate conflicting land uses and to provide visual amenities.
64. To require cost-benefit analysis and market feasibility analysis for major projects.

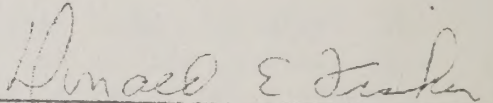
Upon motion by Commissioner Hart, seconded by Commissioner Riggs, and approved by the following vote:

AYES: Dixon, Weber, Hart, Irwin, Riggs, Passovoy, Chairman Fisher

NOES: None

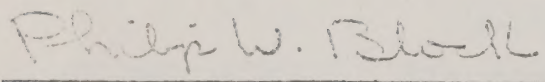
ABSENT: None

Adopted this 17th day of December, 1975.



Chairman, Planning Commission of the
City of Merced, California

ATTEST:



Secretary

RESOLUTION NO. 76-11

GENERAL PLAN - AMENDING OPEN SPACE
ELEMENT

BE IT RESOLVED by the City Council of the City of Merced as follows:

1. The re-edited version of the Open Space Element of the General Plan of the City of Merced, as approved by the Planning Commission Resolution No. 1152, is hereby approved and made part of the General Plan of the City of Merced in accordance with the provisions of Government Code §65357.
2. The City Clerk shall endorse upon the General Plan of the City of Merced the fact of the amendment of the above named elements by this resolution and the date of such amendment.

Duly and regularly adopted by the City Council at its regular meeting held January 19, 1976.

APPROVED:

William P. Quigley
WILLIAM P. QUIGLEY, MAYOR

ATTEST:

ALLAN R. SCHELL, CITY CLERK

BY:

William H. Cunningham
WILLIAM H. CUNNINGHAM
DEPUTY CITY CLERK

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*The OPEN SPACE ELEMENT is one of five elements

- I. Conservation Element
- II. Scenic Highways Element
- III. Seismic Safety/Safety Element
- IV. Noise Element
- V. Open Space Element

that together form the City of Merced's Environmental Resources Management Plan (ERMP), Volume 1 of the City's General Plan.

Pages herein are identified by a combination of Roman numerals (indicating the number of this particular element) and Arabic numerals (indicating the actual page number).

OPEN SPACE ELEMENT

Assuming that we agree on environmental goals, will we accept short-term costs and limitations on freedom of action for long-term benefits or will we cling to our belief in a God-given right to use the land the way we please?

- Ann Louise Strong -

INTRODUCTION

As a result of urbanization and increasing leisure time, the need for preserving open space will play an increasingly important role in creating and maintaining a productive and liveable environment for Merced.

The Open Space Element is the final and most important Element of the Environmental Resources Management Plan (ERMP) because it incorporates the findings and recommendations of the other ERMP Elements and contains the measures necessary to implement the major proposals of the ERMP.

The purpose of this Element is to evaluate needs and opportunities, explore alternative courses of action, and make recommendations with possible strategies and methods for their effectuation. It will involve the long range preservation and conservation of open space including agricultural land, natural resource land, watershed and ground water recharge land, wildlife habitats, recreational land, and scenic land.

BACKGROUND

In developing communities, interests of the individual citizen often collide with the public interest. Similarly, private property rights are often in conflict with the inherent right of the public to preserve and enjoy open space.

Farms and ranches have been covered by the advance of urban growth; water courses are altered and floodplains are constructed upon; homes and

industry are constructed on unsuitable soil and native stands of trees are leveled. These everyday occurrences illustrate our past lack of concern for the natural resources and environment. If our community is to remain productive and liveable, we must drastically change our values and attitudes.

Questions involving values, life styles, community objectives and priorities must be decided upon after consideration from all perspectives. The average homeowner, for example, wants to know how much it will cost. For someone living in poverty such things as unemployment and racism are more important. Also, the developer is concerned about how it will affect the number of units he can construct on a given parcel and how the ultimate cost of the dwelling will be affected.

It is our premise that there are alternatives that deprive no individuals of their basic rights and that can improve both the productivity and quality of the community's open space resources.

Past policy of the City of Merced has encouraged rapid urbanization as exemplified by the City's aggressive annexation and industrial development programs. If Merced is to retain its many amenities and prime agricultural land, attitudes must change drastically. A recent recommendation by a subcommittee of the Citizens General Plan Advisory Committee reveals a new emerging attitude:

"Pollution and the creeping destruction of the ecosystem must be countered by the City demonstrating regional leadership in developing the most advanced programs known for the elimination of air pollution, sound pollution, garbage (solid waste) pollution, and other detriments to the total environment." Furthermore, "it is mandatory that lands currently zoned as agricultural remain so in the immediate perimeter of Merced City limits."¹

DEFINITION OF OPEN SPACE

Open space, as used in this Element, is defined in its broadest sense and shall include several functions important to this region such as areas of resource production and preservation, scenic and resource conservation, enhancement of community values and safety, as well as recreation. Open space areas, purposely set aside, may prevent non-contiguous urban development or haphazard, unordered growth. Open space can assure the continued availability of land for the production of food and fiber, for the enjoyment of scenic beauty, for recreation, and for the conservation of natural resources.

JUSTIFICATION FOR OPEN SPACE

The average citizen often thinks of open space as a non-use or unproductive use of land as exemplified by statements such as "Other land uses provide homes, employment, and a tax base; whereas, open space supplies none of these." Agricultural uses are often considered as only temporary uses until urbanization engulfs them.

Justification of open space planning is necessary if government is going to expend large sums of money for the preservation and management of open space and also limit the full use of land. There are three primary justifications for preserving and managing open space in Merced: (1) user demand; (2) human needs; and (3) economic benefits.

User Demand

It is difficult to quantify the intangible aspects of open space; however, the spiraling demand for outdoor recreation is well-documented. Ann Louise Strong, for example, has stated that by the year 2000 the national population may double, the general nationwide recreation demand may triple, but the demand for recreational opportunities near home may increase tenfold.

Human Needs

The urbanization of Merced has been accompanied by a decline in the amount of open space. Much of our natural environment has been replaced by residences, industries, commercial areas and streets and parking lots. Vehicular traffic has also, in many instances, made the outdoors less accessible.

Ironically, increased urbanization has reduced available open space and, at the same time, has given rise to an increased demand for it. The typical physical environment of the city consists of air, auditory, and visual pollutions that cause "sensory overloads" and therefore frequent stresses and strains. It can be adequately shown that open space helps to offset these negative aspects of urban living, thereby meeting certain socio-psychological needs. Furthermore, open space supplies the essentials of life (e.g., air, water, food and fiber), a fact that becomes more significant as the population of the state, nation and world increases.³

Economic Benefits

In addition to satisfying the human need for recreation and amenities, open space has the following economic benefits:

1. Special fees for selected activities such as boating and horseback riding are generated.
2. Increased incomes for both existing and future restaurants, service stations, sporting good stores and other businesses.
3. Increases in the value of land and property that surround parks and open space. These increases in real estate values benefit property owners by increasing property values and the general public by increasing the value of publicly owned land and property tax revenues.⁴
4. Vegetation improves the environment by purifying air, absorbing

carbon dioxide, and releasing oxygen; by reducing traffic noises; by shielding heat and glare from streets and buildings; and by moderating extremes in temperature. This last factor can lead to significant reductions in utility costs and energy consumption.⁵

5. Open space and outdoor recreation opportunities are prime detriments in the location of industry and in the attraction of a skilled and dependable labor force. They are also important in attracting tourism, retirement, and health facility dollars. Good climate and year-round outdoor recreation are two resources that Merced should protect and develop.
6. Open space can be used as a tool for the preservation of prime agricultural land. This has a direct effect on Merced's economy and will become increasingly important in helping to produce the nation's food supply.
7. Open space preservation can be used to regulate development in areas with flood potential or unfit soil conditions, thereby preventing the possible loss of life and property and also preventing the premature extension of public facilities where it is not economically feasible.

OPEN SPACE CLASSIFICATION SYSTEM

In order to provide a general framework for planning and development, a classification system for open space areas has been developed based on the *Guidelines for Local General Plans - Final Draft* from the Council on Inter-Governmental Relations.⁶ They are grouped into five categories as follows:

Open Space for the Preservation of Natural Resources

This category includes areas required for the preservation of plant and animal life (e.g., riparian and wetland areas), including habitat for fish and wildlife species; areas required for ecological and other

scientific study purposes; streams, banks of streams, lakeshores, and watershed lands; and areas of natural geological significance.

Open Space for Managed Resource Production

Included here are rangeland, agricultural lands, and areas of economic importance for the production of food and fiber (e.g., Class I-IV agricultural land); areas required for water supply land (e.g., groundwater recharge areas, watershed areas, etc.); and areas which are important for mineral production (e.g., sand and gravel extraction).

Open Space for Outdoor Recreation

This category includes areas of outstanding scenic, historic, and cultural value (e.g., vistas, historical sites, archeological sites, corridors, etc.); areas particularly suited for park and recreation purposes (mini parks, neighborhood parks, community parks, regional parks and reservations, state park and recreation areas, reservoirs and bodies of water, special purpose areas for golf courses, stadiums, etc.); areas which serve as links between major recreation and open space reserves (e.g., walks, trails, scenic corridors, waterways, etc.); and areas for utility easement and water distribution canals.

Open Space for Public Health and Safety

Included here are areas which require special management or regulations because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, airport flight paths, floodplains, water quality protection and disposal areas; areas for visual and auditory amenity (e.g., urban malls and squares, landscaping along major transportation facilities, buffer strips, open lands in a native state, groves of trees and agricultural land patterns); and areas for the protection and enhancement of air quality.

Open Space for the Control of Urban Form

This final category includes, but is not limited to, areas that discourage noncontiguous development patterns which unnecessarily increase the costs of community services to residents; and areas which channel urban growth either within already built-up areas or immediately adjacent to them; and areas that protect and provide for neighborhood, community, and city identity.

OPEN SPACE GOALS AND POLICIES*

The following Goals and Policies have been formulated based on the Conservation Element, the Conservation Policies, the Scenic Highways Element, the Seismic Safety/Safety Element, the Noise Element, and the Open Space Element of this ERMP. As such, they become the goals and policies of the Environmental Resources Management Plan of the City of Merced.

The following policies are not effective until the City of Merced takes action in the form of amending existing ordinances, enacting new ordinances, and establishing new programs and procedures, except in the case where a policy merely reaffirms the City's support for past action either by the City or other governmental entities.

Insofar as the policy statements contained herein affect areas outside of the City limits of the City of Merced, the City recognizes that it does not have extra-territorial jurisdiction and that implementation of said policies is dependent upon the cooperation of the County of Merced and the enactment of appropriate ordinances or other land use controls. To that end, it is the policy of the City to work closely with the County to implement these policies within the unincorporated area, so far as practical.

GOALS

1. To preserve and manage the environmental resources of the Planning Area for the enjoyment and utilization of both present and future generations.
2. To establish a balance between development and the conservation of environmental resources.
3. To establish open space as a viable land use rather than a nonuse.

POLICIES

Open Space for the Preservation of Natural Resources

In order to preserve and maintain the natural resources of the area it is the policy of the City of Merced:

- | | |
|--------|---|
| (C-9) | 1. To support ecologically sound water management programs and to encourage local water conservation practices through education and active programs. |
| (C-12) | 2. To promote uses of floodplains for parks, recreation, wildlife preserves and similar uses. |

*The letter-number designations which appear in parentheses in the left-hand column indicate that the same, or similarly worded, policy also appears in another element of the ERMP: (C-32) means Conservation-policy #32; SH=Scenic Highways; SS/S=Seismic Safety/Safety; and N=Noise. Beginning on page V-14 is a list of all remaining policies from other elements of the ERMP, grouped in one source for the reader's convenience.

- (C-13) 3. To oppose ecologically destructive flood control projects when practical.
- (C-14) 4. To encourage utilization of present waste materials such as leaves by means other than sanitary landfill, e.g., compost and use in home gardens.
- (C-16) 5. To investigate the possibility of using sanitary landfill sites (solid waste) nearer the City for recreational purposes in the future (e.g., parks).
- (C-34) 6. To preserve Riparian and Wetland critical wildlife habitats.
- (C-35) 7. To encourage wildlife in the urban-industrial habitat by providing cover and improvements in the following areas:
 - a) Intensively Developed Areas, e.g., placement of permanent trees in downtown areas
 - b) Residential areas, e.g., encourage individuals to provide bird baths, nests, more trees, etc.
 - c) Parks, e.g., encourage dense natural growth where possible, prune less extensively
- (C-36) 8. To study the possibility of developing wildlife preserves within the City (e.g., urban lakes as in Turlock, California, nature study areas).
- (C-37) 9. To study the possibility of increasing flows in certain natural waterways so as to increase their potential for sport fishing and other leisure time pursuits.
- 10. To encourage and support public education that alerts the citizenry to the importance and preservation of our plant and animal life, and their communities and relationships.

Open Space for Managed Resource Production

The production, processing, and distribution of agricultural and other products is a very important part of Merced's economy as well as that of Merced County, the State, and the Nation. Therefore, it is the policy of the City of Merced:

- 11. To maintain agriculture as a primary and extensive land use because of its significant effect on conserving natural resources, its effect on maintaining open space, and its economic benefits.
- (C-27) 12. To investigate innovative ways to preserve excellent to good (Class I and II soils) agricultural land for agricultural use only (e.g., leasebacks, tax breaks, etc.). Such land (together with certain amounts of lower classed land) is shown on the Open Space Plan Map as *permanent agriculture*.
- (C-28) 13. To preserve good to moderate (Class III and IV) soils, shown on the Open Space Plan Map as agricultural land, for as long as feasible in extensive (e.g., grazing) or intensive (e.g., rice) agricultural uses.
- 14. To work closely with Merced County to reevaluate the adviseability of adopting the California Land Conservation Act (Williamson Act).

15. To encourage agricultural methods which protect and/or enhance environmental quality and to oppose those agricultural methods which significantly contribute to air, water, land, and other pollution.
16. To conserve groundwater recharge areas and watershed areas for agricultural, recreational, industrial, and domestic needs.
- (C-24) 17. To regulate or support regulation of any sand and gravel excavations in a manner which avoids damage to the environment.

Open Space for Outdoor Recreation

In order to protect, enhance, and conserve the outdoor recreation environment for both active and passive forms, it is the policy of the City of Merced:

- (C-41) 18. To establish a Historic Conservation Committee for the purpose of developing a Comprehensive Inventory of historic structures within the City and to devise a plan or plans for Historic Conservation.
- (SH-1) 19. To establish the corridors shown on the Open Space Plan Map (Map 14) as officially designated Scenic Corridors.
- (SH-2) 20. To pursue the development of specific plans for each Scenic Corridor using the guidelines as outlined in the Scenic Highways Element of this ERMP and other sources as well. These specific plans will incorporate comprehensive enhancement, protection, and control measures and provide a means for citizen participation.
- (SH-3) 21. To encourage the multiple use of Scenic Corridors and other transportation rights-of-way for such as walkways, bicycle paths, rest areas, etc.
22. To regulate billboards in transportation corridors and other areas within the General Plan Area of the City of Merced.
23. To place all utilities underground where feasible.
24. To encourage further cooperation and coordination between all utility companies in order to establish joint use utility easements so as to minimize visual impact and expenses.
25. To develop a park and recreation system that includes a wide variety of areas and facilities in order to provide opportunities for all residents.
26. To develop a network of nature and bicycle trails along Bear Creek and other areas within the City limits and to study the feasibility of linking a City/County bicycle trail to proposed regional or statewide networks. Further, to pursue the planning and development of compatible multi-use trails in areas outside the City limits in cooperation with other governmental agencies and private individuals and to attempt to resolve any right-of-way problems which might exist in the development of such trails.
27. To encourage further joint use agreements between the City and local school districts to combine park and school facilities when feasible.

28. To encourage future land acquisition of recreational areas in advance of urban development.
29. To locate park and recreation facilities according to their relationship to residential areas, schools, streets, highways, and transit routes, as well as according to population characteristics. A comprehensive master plan to locate park and recreation areas should be developed and adopted.
30. To continue to require the dedication of improved land, payment of fees, or both for park and recreation land for new residential uses.
31. To continue to acquire and/or require a minimum 50-foot easement from the center of all creeks within the Planning Area in order to maintain them as natural preserves (see also the proposed Bear Creek Linear Preserve on the Open Space Plan Map). Further, to promote City-County cooperation in this endeavor.
32. To study the feasibility of acquiring access to irrigation canals for nature trails, fishing, and other recreational activities.

Open Space for Public Health and Safety

In order to protect the health and safety of area residents, it is the policy of the City of Merced:

- C-1) 33. To prohibit all industrial activities that generate excessive air pollution from locating in Merced and oppose any near the City within the General Plan Area.
- C- 34. To give increased support to regional airshed legislation to curb the existing and potential air pollution problems in the San Joaquin Valley airshed.
- C-7) 35. To aggressively explore alternative modes of travel to help reduce air pollution.
- C-3) 36. To consider maximum safety precautions where hazards exist due to fog (e.g., special measures at intersections, different kinds of lights).
- C-6) 37. To incorporate climatological data in site selection and design so as to reduce costs and maintenance as well as contribute to health and safety.
- C-10) 38. To regulate floodplain development and if necessary prohibit development which is dangerous to health, safety, or property due to flooding.
- C-14) 39. To evaluate engineering standards to assure against damage from any flooding.
- C-15) 40. To establish a floodplain ordinance to implement the logical and safe use of floodplains within the General Plan Area.
41. To require all development proposals to include detailed drainage plans.
- SS/S-10) 42. To make an effort to retain a high level of ground water supply in order to reduce the possibility of land subsidence, including the initiation of an educational program to discourage excessive, inefficient uses of water as well as a possible enforcement program to eliminate careless water usage.

- (SS/S-11) 43. To monitor areas that are subject to landslides and require modifications of proposed development to eliminate potential danger.
- (C-30) 44. To encourage strict enforcement of state standards for septic tank development within the Planning Area.
- (C-32) 45. To require City sewer where practical.
- (SS/S-18) 46. To expand the present vacant lot weed abatement program to include a height limit on weeds during the dry season (mid-April through mid-November) in both vacant and developed lots.
- (N-6) 47. To review existing truck routes and suggest changes where necessary that will reduce noise impact on sensitive land uses; to divert through traffic from residential streets.
- (N-7) 48. To require noise barriers between heavy circulation corridors and noise intolerant areas.
- (N-10) 49. To devote full attention to airport master planning with regard to the Merced Airport and to include the following means where possible:
 - a) Public acquisition of land,
 - b) Barriers for ground level operations, and
 - c) Market services to attract land uses that are more tolerant of noise.
- (N-15) 50. To provide quiet zones in existing and future recreational areas.
- 51. To require residential, commercial, and industrial land uses to have sufficient landscape buffers so as to help separate conflicting land uses and to provide visual amenities.
- 52. To encourage shopping and service centers to incorporate malls, squares, and other similar open space areas within their designs and to require extensive, well-designed landscaping throughout.

Open Space for Control of Urban Form

In order to insure the orderly and efficient development of the City in a manner that is not detrimental to the open space resources within the planning area, it is the policy of the City of Merced:

- 53. To require that urban development be limited to lands indicated for such development on the City of Merced's General Plan "Map" according to the timing specified on the various overlay phasing maps (yet to be prepared).
- 54. To preserve Riparian or Wetland critical wildlife areas, historic and cultural sites.

55. To prohibit urban development on *permanent agricultural* land as specified on the Open Space Plan Map (Map 14).
56. To recognize the San Joaquin Valley as a potential critical air basin and to discourage urban sprawl by working jointly with Merced County to encourage orderly development.
57. To regulate development in any areas of excessive noise exposure, areas of scenic value, and *agriculture* land (as shown on the Open Space Plan Map).
58. To provide maps to developers and the general public that indicate areas both suitable for urban uses and the basis for delineating these areas as such.
59. To work closely with the County of Merced in developing and applying open space implementation devices.
60. To individually evaluate development proposals to determine their compatibility with the officially adopted Conservation and Open Space Elements as well as the entire Environmental Resources Management Plan.

If it is determined that a project does not comply with the Conservation and Open Space Elements and/or may involve significant environmental impact as defined by the California Environmental Quality Act of 1970 (CEQA), it will be necessary to prepare an Environmental Impact Report (EIR) which shall include items such as the following:

- a) The environmental impact of the proposed action.
- b) Mitigation measures proposed to minimize the impact.
- c) Alternatives to the proposed action including the "no-project" alternative.
- d) The growth inducing impact of the proposed action.

(Refer to Ordinance #1081 and Resolution #4064, et. seq., for details.)

61. To require cost-benefit analysis and market feasibility analysis for major projects.
62. To explore and consider supporting legislation which would reduce the importance of the property tax as a revenue source for governmental functions.

The following are the policies from all other elements of the ERMP which do not appear in the preceding Open Space policies (either identical or similar wording). The numbers below are not always in sequence because they reflect the actual number of the policy in its own element.

I. CONSERVATION Element

4. To support investigation of existing sources of particulate matter that may be contributing to fog formation. Such findings should be submitted to the Air Quality Control Board, (e.g., U.S. Weather Bureau for formation and dissipation studies).
5. To monitor advances in energy research/use that may have application to Merced (e.g., solar energy) and to continue to seek methods for applying new technology in the Planning Area.
11. To study the Merced Irrigation District's storm water management procedure to determine if additional protection from flooding can be provided.
17. To reduce consumption of fossil fuels by operating City vehicles which are the most functionally efficient.
18. To put greater emphasis on pedestrians and bicyclists by providing paths with monies secured from gasoline taxes or other sources.
19. To promote the use of bicycles by City initiative through "bike days" and other similar means.
20. To monitor developments in transportation systems that would improve mobility within the Planning Area and have less adverse impact on the environment.
21. To incorporate energy saving devices at all levels of government, e.g., insulation, landscaping, etc.
22. To discourage use of unnecessary electrical equipment, including excessive night lighting.
25. To support local ecological groups through increased city participation and leadership.
26. To study the possibility of separating recyclable material at the source of discard, e.g., separate disposal bins for newspaper, glass and aluminum at collection points.
31. To encourage the maintenance and monitoring of records of repair, replacement, expansion of leach fields, and septic tank pumpings.
33. To require Soil Survey, Corrosivity, Soil Bearing Capacity, Slope, and Erodibility data in Environmental Impact Report procedures.
39. To promote fish enhancement programs for Lake Yosemite and other natural waterways through the Department of Fish and Game, and the Merced Irrigation District.

40. To seriously study the possibility of providing urban lakes within the existing and future city limits.
42. To study the possibility of establishing an historical district or like mechanism to preserve/stabilize older neighborhoods.
43. To consider the establishment of an architectural review board to ensure that new development in older areas is in scale with and compatible with existing buildings.

III. SEISMIC SAFETY/SAFETY Element

1. To continue to require that new development meet the standards of Seismic Zone 3.
2. To reduce the potential danger from earthquakes and seismic related activity from existing buildings where necessary.
3. To analyze and reinforce where necessary water tanks built prior to the adoption of the current seismic standards.
4. To provide water mains that are resistant to seismic effects; e.g., ductile iron.
5. To inspect architectural trim to determine its ability to withstand seismic activity and require reinforcement or removal where necessary.
6. To provide additional storage facilities to insure an adequate supply of water in the event of seismic activity.
7. To provide for the reasonable safety of residents in the event of major disaster by continual emphasis by responsible officials of the importance of a current disaster plan for the City of Merced.
8. To establish a process (e.g., disaster simulation) whereby the City of Merced systematically encourages review of and familiarity with the most current community disaster plan by those in local government and other local residents who hold responsible positions for the execution of said plan in times of emergency.
9. To provide for the reasonable safety of residents in the event of major disaster by continual emphasis by responsible officials on methods whereby information and instructions will be disseminated to residents in the event of such disaster (e.g., radio and television announcements and instructions).
12. To analyze proposed fire station locations to determine land use and circulation conflicts and to provide modifications where necessary to reduce the conflict.
13. To provide additional fire stations as expansion of the City occurs, including one in the area of Loughborough Drive and "R" Street within five years.
14. To provide an adequate supply of water with ample pressure in the event of fire, the following recommendations of the Insurance Services Office of California should be seriously considered:
 1. A gridiron of 8-inch or larger pipe...with intersecting mains in each street in high value districts.
 2. Additional cross connections be provided so that lengths of six-inch pipe on the long side of blocks in residential areas will not exceed 600 feet.
 3. All valves be inspected annually and large valves more frequently. Valves should be kept in good condition and suitable records of inspections and repairs maintained.

4. Additional hydrants be installed in residential districts so that the average built-up area served will not exceed 120,000 square feet. In general hydrants should be spaced every 500 feet in these areas.
 5. Hydrants should be inspected twice a year and after use; suitable records of inspections and repairs should be maintained.
15. To adopt national standard sizing on fire hydrant outlets in the City of Merced.
 16. To continue to provide fire prevention information through the schools, public interest groups and other facilities and people.
 17. To expand or establish an inspection program to include the following recommendations by the Insurance Services Office of California:
 1. Fire prevention inspections of all buildings other than dwellings be made twice a year, except hazardous occupancies [see Appencix III-B] should be inspected four times a year.
 2. A program of adequate reinspection of electrical wiring and equipment be established.

IV. NOISE Element

1. To limit operating hours for noisy equipment used in the City of Merced.
2. To review City functions (e.g., construction, refuse collection, street sweeping, tree trimming) to insure that noise generated by equipment has been reduced to the lowest practical level.
3. To include minimum noise level requirements in specifications for City equipment purchases and construction contracts.
4. To support the state legislature in lowering the permissible noise levels of vehicles.
5. To synchronize traffic signalization where possible to minimize noise; to limit vehicular speed where high noise cannot be tolerated.
8. To measure noise levels on major streets and to utilize model generated noise contours for delineating possible problem areas; to require field measurements when new development may be impacted by high noise levels.
9. To study the possibility of moving rail traffic from more noise sensitive areas to railways in less sensitive areas.
11. To encourage airport management techniques that will keep noise conflict to a minimum, including changes in flight schedules, and where possible, changes in flight patterns and landing/take-off techniques.
12. To utilize model generated noise contours for delineating possible problem areas and to require field measurements when new development may be impacted by high noise levels.
13. To provide information on insulation techniques that can be used in existing homes to lower sound transmission as well as reduce heating and cooling costs.
14. To encourage sound masking techniques in commercial and office buildings where noises are disruptive.

40. To seriously study the possibility of providing urban lakes within the existing and future city limits.
42. To study the possibility of establishing an historical district or like mechanism to preserve/stabilize older neighborhoods.
43. To consider the establishment of an architectural review board to ensure that new development in older areas is in scale with and compatible with existing buildings.

III. SEISMIC SAFETY/SAFETY Element

1. To continue to require that new development meet the standards of Seismic Zone 3.
2. To reduce the potential danger from earthquakes and seismic related activity from existing buildings where necessary.
3. To analyze and reinforce where necessary water tanks built prior to the adoption of the current seismic standards.
4. To provide water mains that are resistant to seismic effects; e.g., ductile iron.
5. To inspect architectural trim to determine its ability to withstand seismic activity and require reinforcement or removal where necessary.
6. To provide additional storage facilities to insure an adequate supply of water in the event of seismic activity.
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13. To provide additional fire stations as expansion of the City occurs, including one in the area of Loughborough Drive and "R" Street within five years.
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9. To study the possibility of moving rail traffic from more noise sensitive areas to railways in less sensitive areas.
11. To encourage airport management techniques that will keep noise conflict to a minimum, including changes in flight schedules, and where possible, changes in flight patterns and landing/take-off techniques.
12. To utilize model generated noise contours for delineating possible problem areas and to require field measurements when new development may be impacted by high noise levels.
13. To provide information on insulation techniques that can be used in existing homes to lower sound transmission as well as reduce heating and cooling costs.
14. To encourage sound masking techniques in commercial and office buildings where noises are disruptive.

16. To revise the zoning and subdivision ordinances to include control mechanisms for noise sensitive areas and uses, e.g., residential development.
17. To adopt a Noise Ordinance for the City of Merced.
18. To set up an enforcement program including a liaison with the Merced County Health Department for assistance in on-site noise measurements and preparation of noise standards.
19. To initiate an educational program that includes public involvement and distribution of information on noise impact.
20. To review other elements of the General Plan to examine possible conflict between high noise levels and noise sensitive land uses.

OPEN SPACE PLAN MAP DESCRIPTION

The Open Space Plan Map (Map 14) as contained in this Element, is the summation map of all previous maps in the Environmental Resources Management Plan. The major difference, however, is that the Open Space Plan Map considers not only environmental information but also growth trends, sewerability, goals, etc. The following paragraphs briefly describe this map.

As a base, the *City Limits* as of November, 1973, are shown along with *Major Roads, Railways, and Creeks*. All that area appearing as light yellow on this map represents the *Urban Area* in 1995. This urban area differs from the General Plan Map (adopted 1968) in that it shows no distinction between different urban uses. For example, no distinction is made between low density, medium density, or high density residential.

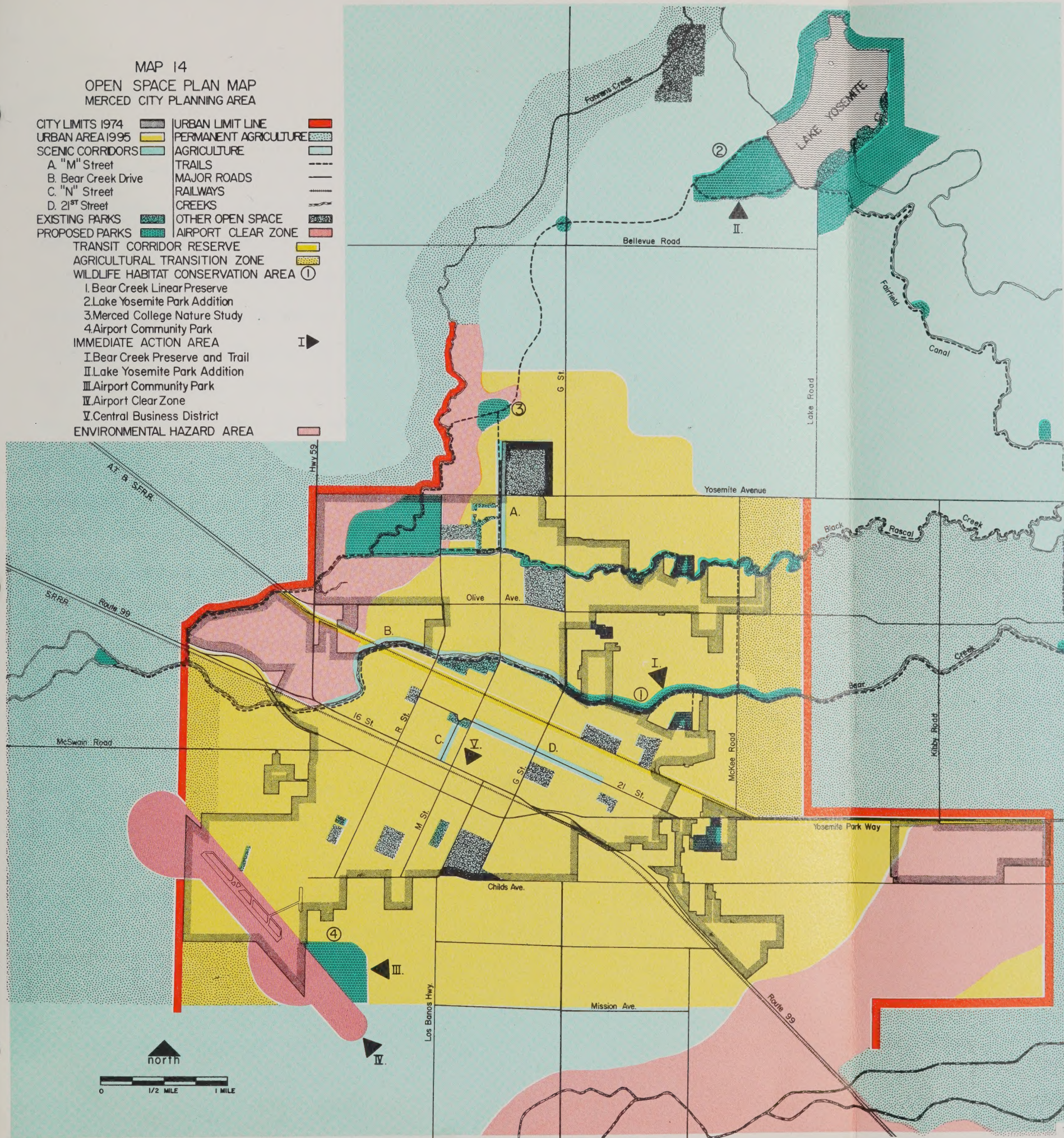
Also within this 1995 urban area, four *Scenic Corridors* are shown. They are "M" Street from Black Rascal Creek to Merced College, North Bear Creek Drive from Highway 59 to "G" Street, "N" Street from 16th Street to the County Court House, and 21st Street from Glenn Avenue to the Court House. With the adoption of this ERMP, these corridors shall be officially designated as Scenic Corridors as described in the Scenic Highways Element and the Open Space Policies 19-21.

Publicly owned open spaces have been classed as *Existing Parks, Proposed Parks* and *Other Open Space* on the Open Space Plan Map. *Existing Parks* that have been mapped include all City Parks except the smallest ones (e.g., mini-parks). This category also includes other parks in the City (e.g., Court-House Square) and outside (e.g., Lake Yosemite).

Proposed parks that have been mapped include parks proposed in the City and a number of parks outside the 1995 urban area (e.g., Lake Yosemite Park Addition and several smaller parks along the proposed trail system). These proposed parks and others will be discussed in some detail in the Parks and Recreation Element of the General Plan.

MAP 14
OPEN SPACE PLAN MAP
MERCED CITY PLANNING AREA

- | | | |
|--------------------------------------|-----------------------|--|
| CITY LIMITS 1974 | URBAN LIMIT LINE | |
| URBAN AREA 1995 | PERMANENT AGRICULTURE | |
| SCENIC CORRIDORS | AGRICULTURE | |
| A. "M" Street | TRAILS | |
| B. Bear Creek Drive | MAJOR ROADS | |
| C. "N" Street | RAILWAYS | |
| D. 21 ST Street | CREEKS | |
| EXISTING PARKS | OTHER OPEN SPACE | |
| PROPOSED PARKS | AIRPORT CLEAR ZONE | |
| TRANSIT CORRIDOR RESERVE | | |
| AGRICULTURAL TRANSITION ZONE | | |
| WILDLIFE HABITAT CONSERVATION AREA ① | | |
| I. Bear Creek Linear Preserve | | |
| II. Lake Yosemite Park Addition | | |
| III. Merced College Nature Study | | |
| IV. Airport Community Park | | |
| IMMEDIATE ACTION AREA | | |
| I. Bear Creek Preserve and Trail | | |
| II. Lake Yosemite Park Addition | | |
| III. Airport Community Park | | |
| IV. Airport Clear Zone | | |
| V. Central Business District | | |
| ENVIRONMENTAL HAZARD AREA | | |



Other Open Space includes schools, Merced College, Merced County Fairgrounds, etc. These are open spaces with limited access in some cases and have uses not always associated with providing open space. They are generally less attractive and less "open" than park areas.

The *Urban Limit Lines* (on the western and eastern borders of the City) have been established to prevent urban sprawl, guide growth, preserve agricultural land and to avoid certain environmental hazards, and also to help prevent the unnecessary extension of public services. They are specific lines designed to assure positive control of urban form. If agriculture is to be maintained as a viable economic factor in Merced, as stated in policies 11-15, then it is essential that these urban limit lines be maintained in the decision-making processes. The Open Space Plan Map designates more than sufficient areas suitable for urban development.

Related to the Urban Limit Lines and outside the 1995 Urban Area, *Permanent Agriculture* has been shown on Map 14. This land is to be used for agriculture only; therefore, no urban development should take place on this land. City-County cooperation will have high priority in keeping this land as permanent agriculture.

Other agriculture lands north and south of the City are less suited to intensive agriculture and have been designated as *Agriculture* on the Open Space Plan Map. These lands do have importance for extensive agriculture (e.g., grazing) and as such have high value for these extensive uses. If urban development is to proceed on these lands, it should be done with the utmost care and consideration.

Within the Urban Limit Line on both the eastern and western side of the City, an *Agricultural Transition Zone* is indicated. This area is designed to be a transition between urban uses and agriculture. It should be zoned and maintained at not less than five acres per lot. Notwithstanding any other regulations, sewers and other public services should not be

extended to these areas. By utilizing the Agricultural Transition Zone, an Urban Limit Line, and Permanent Agricultural areas, Merced will be better able to control, form and maintain its valuable open space resource - agriculture.

Also included on the Open Space Plan Map are a *Transit Corridor* and a *Scenic Trails* proposal.

The *Transit Corridor* is to provide a space for any future rapid transit or mass transit (e.g., BART) that may come into being by the year 1995. The corridor chosen follows an existing corridor (i.e., the Santa Fe Railway) which operates by permit from the City of Merced. The permit is due for renewal in December 1976 and at that time provisions should be made or options provided so that this corridor right-of-way may be used in the future for a transit system. Santa Fe Railroad could share the Southern Pacific track that passes through Merced to the south as has been done in other cities.

The *Trails* shown would provide scenic bicycle and walking routes along the major creeks (i.e., Bear Creek and Black Rascal Creek) and connect Merced with Lake Yosemite. These trails would preferably be separate pathways, perhaps made of asphalt. By following canals and natural streams it would be possible to provide a very unique scenic trails system for the residents of the City of Merced without greatly disturbing agricultural activities.

The *Wildlife Habitat Conservation Areas* shown on Map 14 are 1) Bear Creek Linear Preserve (a natural area along Bear Creek), 2) Lake Yosemite Park Addition (an addition to the existing park which could include a lake), 3) Merced College Nature Study (a nature study area in the Merced College vicinity), and 4) Airport Community Park (a developed park which could contain substantial cover for wildlife). Each of these proposals would be designed and/or maintained primarily for wildlife with activities for humans designed around the critical wildlife areas. The Bear Creek Linear Preserve

and the Lake Yosemite Park Addition are fairly set as far as location is concerned. The Merced College Nature Study area and the Airport Community Park would have much greater flexibility in site location.

The Bear Creek Linear Preserve, the Lake Yosemite Park Addition, and the Airport Community Park have also been shown on Map 14 as *Immediate Action Areas*. That is, action to acquire the land and/or necessary easements should take place in the very near future because there is constant pressure to develop many of these areas.

Also included for immediate action is the Central Business District and the Airport Clear Zone. A feasibility study for renovation of the downtown has been concluded and the possible alternatives involve creating many urban open space areas. The Airport Clear Zone has been given high priority by the City, County, and Airport Authority (Airport Land Use Commission) and efforts should be made to keep undesirable uses from encroaching upon this clear zone.

The last category on the Open Space Plan Map is the *Environmental Hazard Area*. On Map 14, environmental hazards such as flooding and/or severe noise have been shown near the northwestern and southeastern boundaries of the urban area. On the southeastern boundary, the Environmental Hazard is an area currently identified as a 50 year floodplain. On the northwestern boundary, the Environmental Hazard is substantially that area currently identified as the 50 year floodplain. It also includes land impacted by high noise levels generated by jet aircraft from Castle Air Force Base.

ACTION PROGRAM

The purpose of the Action Program is to adopt in concept the various techniques and strategies for implementing the City of Merced's Environmental Resources Management Plan (ERMP).

There are several devices for acquiring rights to land ranging from full to partial rights. The main tools for open space resource acquisition and regulation are summarized in Figure V-1.

Figure V-1

Tools for Open Space Acquisition and Regulation

Merced City Planning Department

Land Acquisition

- Negotiated Purchase
- Eminent Domain
- Excess Condemnation
- Gifts
- Tax Foreclosures
- Land Filling and Street Closures

Acquisition of Rights Less Than Full Ownership

- Leasebacks
- Easements

Land Use Regulation

- Zoning
 - Large Lot Zoning
 - Cluster Zoning
 - Floodplain Zoning
 - Agricultural Zoning
- Subdivision Regulations
- Official Mapping

Taxation

New Approaches

- Compensable Regulations
- Encouragement of Private Investment
- Land Bank Corporation

Land Acquisition

Negotiated Purchase

When recreational land is to be used intensively, it is desirable to purchase the full rights (fee simple) to the land, either through negotiated purchase, eminent domain or donation.

The constitutional basis of public acquisition of either fee or less than fee interest in land arises from the doctrine of public necessity. Public ownership of open space can be legally justified on grounds that it serves the general welfare through such things as supplying recreational areas, conservation of water supply or regulation of urban growth. The development rights concept is constitutional and well grounded in common law. ⁷

Eminent Domain

The Courts have clearly held that governmental bodies have the power to condemn private land by eminent domain in order to provide public park and recreation facilities. Merced can use the power of eminent domain to acquire private land, fee simple, or obtain partial rights such as easements. More liberal Courts have allowed certain communities to buy land and then sell or lease it back to private parties who must then follow restrictive covenants that are for the good of the community.

There is a clear distinction between the police power and the power of eminent domain. Local government derives its power to impose land use regulations from its "police powers." The power to regulate individual actions can only be used when the public health, safety, morals, and general welfare is involved. The police powers can be used to prevent the public from building on floodplains and excessive slopes or it can be used to prevent property owners from restricting views in some instances. If the public's welfare is at stake and a property owner is injured by use of the police powers there is no reason to compensate him for not injuring the public welfare. However, use of the police power, especially that involving enforcement without compensation, must be based on some reasonably supported objective if it is to win judicial approval.

However, to preserve open space in Merced is a positive benefit and could not be done with the police powers:

*We cannot compel a benefit by the police power, for if we do we are forcing the owner to forego money that he might properly realize and thereby shoulder a cost that should be borne by the public. The law is clear on this point. If we want a benefit, we have to pay for it.*⁸

Excessive Condemnation

It is also possible to acquire park and open space land by excess condemnation (eminent domain) or excess purchase (negotiated purchase). This technique works in two ways. First, Merced might acquire street right-of-way in excess of its needs. In this way the authorization and financing for a park site can be a rider on the street improvement. The reverse occurs when more land is acquired than necessary for a park site. The excess land can then be sold subject to restrictions that in effect creates a planned recreational-residential area and also helps to finance the development of the park.⁹

Gifts

In California, cities and counties have the right to accept gifts of land for public parks or other public use. As a charter city, Merced may hold or dispose of the property or use the income according to the terms of the gift. The growing interest in the environment and open space preservation makes this device particularly useful at this time. A strong effort should be made to pass legislation that gives tax advantages and other benefits to those willing to dedicate land.

Tax Foreclosures

Nearly every community (including Merced) has many acres of tax delinquent land. Tax foreclosures as a tool can be very effective if a procedure is set up to handle such land. Some communities have a commission that classifies, forecloses, and distributes the land to various agencies for parks, schools, and other public facilities. Under this type of arrangement government

agencies can trade land that is not suitable for parks for land that is.

Land Filling and Street Closure

As Merced County becomes more urbanized solid waste disposal will become more of a problem. Sanitary land fill techniques can greatly reduce these problems and also make possible the conversion of land fills into recreational sites and open space. The City of Virginia Beach, Virginia, for example, has been disposing of about 1,000 tons of refuse daily for the past five and one-half years in a single sanitary land fill. This "mountain" of garbage is soon to be transformed into a recreational facility that will include a soapbox derby ramp and an amphitheater with seating for 10,000.

Additionally, interior streets and parking areas can sometimes be closed to traffic and converted into recreation spaces. This is particularly useful in built-up areas where space is at a premium. For example, the one block portion of West 6th Street between Sheehy School and Stephen Leonard Park might be considered for closure in order to integrate the school and park site.

Acquisition of Rights Less Than Full Ownership

Leasebacks

Another acquisition tool is the use of leasebacks. Under this device a public agency acquires and controls land, but does not necessarily occupy the land. An example is the purchase and leaseback of farmland, in which case the former continues to produce crops while providing the public with income and open space opportunities. Lease agreements must be carefully drafted in order to avoid violation of debt limitations and other restrictions.

Easements

Open space can also be acquired through the purchase of easements or partial rights, in which certain open space objectives can adequately be

achieved. Easements can be classified as positive or negative. Positive easements are when a public agency buys fishing rights or the right-of-way for a hiking or bicycle trail. A negative easement (conservation or scenic easement) is when a public agency purchases certain rights from the property owner. The property owner may continue to use the land as before except that certain activities, such as cutting down trees or constructing billboards, will not be undertaken.

Easements provide advantages to both the public and to the property owners. On the public side, significant open space areas can be preserved without having to fully purchase the land, while the property owner must still maintain and pay taxes on the property.

Property owners benefit by easements from a number of ways. Easements often prevent the full acquisition of property by the public. In this way the landowner may continue to use most of his land. Often it is beneficial for a property owner to donate an easement from a tax standpoint. The value of the easement can be used as a charitable deduction for income tax purposes, and property tax assessors will be more likely to keep tax assessments low. Some tax laws have been passed to this effect. Also, should he wish to subdivide abutting land he owns, its value would be higher because of the guarantee of nearby open space created by the easement.

In short while easements are not useful for providing space for areas that receive intensive use such as urban parks, they are useful for many other open space needs.

Land Use Regulation

Land use regulation is another method for acquiring parks and open space. Local government and in some instances regional government have regulatory powers. The major types of regulation used are: (1) zoning, (2) subdivision control, and (3) the official map. The primary advantage of regulation is that the landowners do not have to be compensated.

I. Michael Heyman in "Open Space and the Police Power" states that the following doctrines from Federal and State Constitutions are often used by Courts to rule on the validity of land use regulation:

- (1) The regulatory measure which normally prohibits a specific land use must have a reasonable relation to the end or goal desired.
- (2) Similarly situated property owners should be treated similarly. Regulations imposed on one class of owners are arbitrary or unreasonable if not imposed also on other owners who fit functionally into the same class.
- (3) Restrictive regulations imposed on property owners to effectuate policy goals not widely accepted are "arbitrary, unreasonable, or confiscatory."
- (4) Private property cannot be taken for public use unless the owner is compensated. The key is whether the purpose is to confer on the public a benefit rather than to protect the public from a harm.

Zoning

Zoning is the most widely used regulatory device for preserving park and open space land. Both development and natural resource zoning pertain to open space.

Large lot zoning usually involves lot sizes of from one to five acres. In reality it does not save open space; by forcing developers to use large lots for individual houses, the community is permitting the open landscape to be cut-up into privately owned pieces of property. Large lot zoning has often been used to zone out minority and low income groups rather than to preserve open space. ¹¹

This type of zoning would be justified in the Agricultural Transition Zone on the eastern and western borders of the urban area of Merced. Used with care, large lot zoning may provide basic open space qualities.

Cluster or density zoning appears to be the most useful development zoning technique. Under cluster zoning a maximum density for an area is established after which the developer may alter individual lot sizes as long as the total subdivision does not exceed the maximum for the district.

Cluster development offers advantages to the developer, the residents and to the general public. It reduces building costs because only land most suited for building is used and it reduces both the construction and maintenance costs of streets and utilities because the development is compact. Cluster development can also provide needed open spaces to serve both neighborhood recreation and community open space needs. By planning several subdivisions together it would be possible to create a greenbelt or large linear open space system.

Floodplain zoning is a method of prohibiting or restricting development within floodplains. In Merced, this type of zoning may be useful in the Environmental Hazard areas as outlined on the Open Space Plan Map. The principal objective of floodplain zoning must be to allocate land to its most appropriate use for the community as a whole. Floodplain zoning may protect adjacent, upstream, and downstream private and public landowners from direct and substantial increases in flood damage. It has potential for minimizing unjustified costs to the city taxpayer caused by development in flood hazard areas. Protection of floodplains through zoning may eliminate the need for extensive protective flood control structures such as dams, reservoirs, levees, flood walls, and channel "improvements," methods which provide varying degrees of but not complete flood protection.¹²

Agricultural zoning has been used primarily in rural areas. As exemplified by Santa Clara County's agricultural zoning failure, however, this type of zoning cannot withstand strong development pressures by itself. In some areas of California, agricultural zoning, combined with dedication under the Williamson Act, may eventually preserve large amounts of agricultural land.

Subdivision Regulations

Subdivision regulations are statutes adopted by municipalities to govern the conversion of vacant land into building sites. A developer is not permitted to make improvements or to divide and sell his land until a plat (map)

of the proposed subdivision layout is approved.

In Merced, a subdivision ordinance has helped to implement municipal plans with respect to location of streets, highways, schools, and parks. As in other communities, Merced has added a condition to these regulations requiring payment of a fee or dedication of land for parks and other open space. Monies generated from this ordinance must be spent on parks within a specified distance from the subdivision so that those who are paying the fees are guaranteed nearby parks.

Official Mapping

The official map is an alternative device used to prevent development of land desired for public purpose. This device is most frequently used to reserve street and highway right-of-way. A landowner may not develop any land on the "official map" that is set aside for public purposes.

Taxation

Taxation is the fourth major tool for park and open space acquisition and control. Taxation can provide incentives for developers to retain a portion of their land in open space. Tax exemption, preferential assessment, and tax deferral are useful devices.

Tax Exemption - Public parks and open space are usually exempt from property taxation. The partial or full exemption of private open space lands is commonly determined by their benefit or use to the public.

Preferential Assessment - Preferential tax assessment is usually used for encouraging the continuation of farming. Agricultural land is assessed at its agricultural value rather than development value. It has been found that reduced tax rates by themselves have not been enough to prevent unwanted development.

Tax Deferral - Under this scheme taxes are suspended on certain types of land that are put into a wildlife or recreation land reserve. If the ¹³ land is later developed the penalty of paying back taxes is put into effect.

These tax devices will have little effect on preserving open space by themselves because they cannot stop large-scale speculation and development. Tax incentives must be used with other land use controls like acquisition and zoning to be successful.

New Approaches

Compensable Regulations

A technique of temporary and permanent open space preservation has been suggested based on regulations similar to zoning but with a governmental guarantee that when the owner sells his property in the open market, he will receive a price equal to the value of his property just before the controls were imposed. The primary objective of this approach is to help time and control the character of urban growth through the preservation of privately owned open space in a way that both preserves open space land and provides land best suited for residential, commercial, and other land uses.¹⁴ This approach is worth considering, though it has a number of inherent difficulties. For example, care must be taken not to compensate property owners where such compensation is not necessary.

Encouragement of Private Investment

Business and developers can provide open space and help themselves at the same time. There are numerous examples where downtown businesses have financed beautification projects or where sidewalk cafes, nursery schools, outdoor theaters, sport clubs and bike rentals have been profitable for the businessman and have helped fill a gap in leisure time and open space needs of the public.

Land Bank Corporations

This new technique addresses itself to the problem of distributing profits equitably among landowners. The primary implementation device involves a real estate syndicate that can purchase and sell property rights and allows all property owners to share mutually in the costs and benefits. Although not used widely, it has achieved certain open space goals for some communities.¹⁵ A method similar to this might be considered for developing a site utilization plan for the "Proposed Park" (Fahrens Creek location) shown on the Open Space Plan Map in that it is under multiple ownership.

Establishing Intergovernmental Approaches

To a large extent the achievement of the Goals and Policies of the ERMP lies in the strong cooperation of different levels of government.

At the Federal and State level there has been much assistance from various agencies in the identification and classification of natural resource features within the planning area including the Corps of Engineers, the State Department of Fish & Game, and the Soil Conservation Service. More complete information on environmental resource management is still needed from higher levels of government. The continued urbanization of the San Joaquin Valley poses dramatic consequences for air quality and waste water management. Factors which do not follow political boundaries cause environmental problems which can only be solved at higher governmental levels.

Likewise, the Merced County Association of Governments must coordinate their functions with surrounding counties and other clearing house agencies.

At the City and County level, joint policies and programs must be established if environmental resource conservation and open space preservation are to be successful. In establishing transition zones, urban limit lines and permanent agricultural areas, there must be joint meetings between planning commissions and other boards at the City and County level to integrate management techniques and coordinate decision-making policies.

Developing Citizen Awareness

As in most governmental activities in the United States, citizen awareness and participation is one of the keys to sound decision-making. Presently in the City of Merced, public notice is given well in advance for various private and public projects which require discretion on the part of elected officials. Notices are published in the local newspaper, hearing are held, and citizens are given an opportunity to speak at Commission and City Council meetings. The Committee of One Hundred provided for considerable citizen involvement

in the formulation of the 1968 General Plan and has again provided input for the current updating of the General Plan.

Citizen education is as essential as awareness and involvement. Concentrated efforts should be made by City departments to help educate the public about governmental regulations and functions through newspaper articles, special notices in City utility billings and other means. Groups which provide educational materials for the general public (e.g., Merced Ecology Action) should be encouraged.

Environmental Data and Impact Assessment

The maps included or referred to in the ERMP are intended for the use of property owners, developers, and other interested persons in determining the development potential of land within the planning area. Likewise, the text of proposed projects within the planning area. The California Environmental Quality Act (CEQA) requires that an Environmental Impact Report (EIR) be filed for projects which may have a significant effect on the environment. Information in the ERMP will help determine when an EIR should be required and in preparing the EIR itself.

Immediate Action Programs

Based on the Open Space Plan Map's *Immediate Action Areas* and the Open Space Goals and Policies, the following are recommended for immediate action:

- 1) Acquisition of easements and/or rights-of-way for the Bear Creek Linear Preserve and the development of a plan or plans for wildlife enhancement and/or preservation.
- 2) Acquisition of land for park purposes at Lake Yosemite in conjunction with Merced County.
- 3) Acquisition of land for park purposes near the Merced Airport (Airport Community Park).
- 4) Redevelopment of the Central Business District in a way that makes maximum use of open space areas.
- 5) Maintenance of the Airport Clear Zone.

- 6) Establishment of Urban Limit Lines and associated Agricultural Transition Zone and Permanent Agricultural area in cooperation with Merced County.
- 7) Establish an open space ordinance to implement the logical and safe use of Environmental Hazard areas (i.e., floodplain, noise exposure zones) as shown on the Open Space Plan Map.
- 8) Develop a Scenic Trails System with the first phase commencing along Bear Creek and subsequent phases designed to provide a scenic trail system generally as shown on the Open Space Plan Map.
- 9) Establish the Scenic Corridors as shown on the Open Space Plan Map and as outlined in the Scenic Highways element.
- 10) Establish a Historic Conservation Committee as outlined in the Conservation Element.

EPILOGUE

If we are to establish the secure foundations of an equal-opportunity society and master the sensitive arts of building a life-encouraging environment, then at this moment in history we need to realize that: Bigger is not better; slower may be faster; less may well mean more.

-Stewart Udall-

For a number of years, Mercedians have been becoming increasingly aware of what has happened and continues to happen to this community's environment. Although Merced is only beginning to experience pollution and other exploitation of the environment, as compared to large metropolitan area, now is the time to take decisive action concerning environmental issues.

If our concern for preserving the many natural assets of Merced has progressed far enough for us to take the big step in adopting meaningful policies, then are we prepared to stand up to the constant pressure to deviate from these policies or will we continue in our piecemeal approach to land development that slowly destroys our natural resources?

The Environmental Resources Management Plan, including this Open Space Element, incorporates a number of ideas and policies new to Merced. It is hoped that this plan provides the facts, concepts, and proposals necessary in order for community residents, community leaders and elected representatives to answer this question.

We must act now before many of our options disappear if we decide that the preservation of Merced's natural environment and character is worth the personal sacrifices, life style changes and monetary costs necessary.

FOOTNOTES

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7. E. Stanley Weissburg, "Legal Alternatives to Police Power: Condemnation and Purchase, Development Rights, Gifts," *Open Space and the Law*, Francis W. Herring, editor, Berkeley, 1965, pp. 41-42.
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10. I. Michael Heyman, "Open Space and the Police Power," *Open Space and the Law*, edited by Francis W. Herring, Berkeley, 1965, pp. 8-9.
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12. Richard Spicer, editor, *Regulations for Floodplains*, PSA Report #277, American Society of Planning Officials, Chicago, February, 1972, p. 6.
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14. Jan Krasnowiecki and Ann Louise Strong, "Compensable Regulations for Open Space: A Means for Controlling Urban Growth," *Journal of the American Institute of Planners*, May, 1963, pp. 87-97.
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